

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 1015

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO INFRASTRUCTURE; ENACTING THE TRIBAL INFRASTRUCTURE
ACT; CREATING A BOARD; PRESCRIBING POWERS AND DUTIES; CREATING
A TRUST FUND; CREATING A PROJECT FUND; MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Tribal Infrastructure Act".

Section 2. FINDINGS AND PURPOSE.--

A. The legislature finds that:

(1) tribes lack basic infrastructure resulting
in poor social, health and economic conditions of tribal
communities whose members are citizens of New Mexico;

(2) adequate infrastructure such as water and
wastewater systems, major water systems, electrical power
lines, communications, roads, health and emergency response

.157842.4

underscored material = new
[bracketed material] = delete

1 facilities and infrastructure needed for economic development
2 are essential to improved health, safety and welfare of all New
3 Mexicans, including residents of tribal communities;

4 (3) local tribal efforts and resources have
5 been insufficient to develop and maintain a consistent and
6 adequate level of infrastructure in tribal communities;

7 (4) addressing the urgent need of replacing,
8 improving and developing tribal infrastructure through the use
9 of an alternative financing mechanism is a long-term cost
10 savings benefit to both the state and the tribes;

11 (5) adequate infrastructure development on
12 tribal land will allow tribal members to achieve the basic
13 conditions necessary to improve the quality of their lives; and

14 (6) much revenue is realized from tribal lands
15 for the state general fund and for other state funds.

16 B. The purposes of the Tribal Infrastructure Act
17 are to:

18 (1) ensure adequate financial resources for
19 infrastructure development for tribal communities;

20 (2) provide for the planning and development
21 of infrastructure in an efficient and cost-effective manner;

22 (3) develop infrastructure in tribal
23 communities to improve the quality of life and encourage
24 economic development; and

25 (4) encourage partnerships between the state,

.157842.4

1 the federal government, Indian nations, tribes and pueblos and
2 private entities in the development of infrastructure for
3 tribal communities.

4 Section 3. DEFINITIONS.--As used in the Tribal
5 Infrastructure Act:

6 A. "board" means the tribal infrastructure board;

7 B. "department" means the Indian affairs
8 department;

9 C. "financial assistance" means providing grants or
10 loans on terms and conditions approved by the board;

11 D. "governor" means the governor of New Mexico;

12 E. "project fund" means the tribal infrastructure
13 project fund;

14 F. "qualified project" means a tribal
15 infrastructure project selected by the board for financial
16 assistance pursuant to the Tribal Infrastructure Act;

17 G. "tribe" means a federally recognized Indian
18 nation, tribe or pueblo located wholly or partially in New
19 Mexico or any of its governmental entities or subdivisions; and

20 H. "trust fund" means the tribal infrastructure
21 trust fund.

22 Section 4. TRIBAL INFRASTRUCTURE BOARD CREATED.--

23 A. The "tribal infrastructure board" is created and
24 is administratively attached to the department.

25 B. The board shall consist of seven voting members

.157842.4

1 and eight non-voting members.

2 C. Three of the voting members are:

3 (1) the secretary of Indian affairs, or the
4 secretary's designee from the department;

5 (2) the secretary of finance and
6 administration or the secretary's designee from the department
7 of finance and administration; and

8 (3) the executive director of the New Mexico
9 finance authority or the executive director's designee from the
10 New Mexico finance authority.

11 D. The following four voting members who have
12 experience with capital projects development or administration
13 shall be appointed by the governor:

14 (1) one person who is a member of a pueblo;

15 (2) one person who is a member of the
16 Jicarilla Apache Nation or the Mescalero Apache Tribe, who
17 shall serve on an alternating basis;

18 (3) one person who is a member of the Navajo
19 Nation; and

20 (4) one person who is a citizen of New Mexico
21 and who has education and experience in the fields of finance
22 and development of capital projects.

23 E. There shall be eight non-voting members as
24 follows:

25 (1) one representative from the federal bureau

.157842.4

1 of Indian affairs, Albuquerque area office, designated by the
2 regional director;

3 (2) one representative from the federal bureau
4 of Indian affairs, Navajo area office, designated by the
5 regional director;

6 (3) one representative from the Albuquerque
7 area Indian health services designated by the area director;

8 (4) one representative from the Navajo area
9 Indian health services designated by the area director; and

10 (5) one representative from the Navajo tribal
11 utility authority appointed by its governing board; and

12 (6) one representative of a New Mexico rural
13 electric cooperative, appointed by the governor;

14 (7) one member of the house of
15 representatives, appointed by the New Mexico legislative
16 council, who is a member of the interim legislative Indian
17 affairs committee; and

18 (8) one member of the senate, appointed by the
19 New Mexico legislative council, who is a member of the interim
20 legislative Indian affairs committee.

21 F. The board shall meet at the call of the chair,
22 who shall be one of the legislative appointees, or whenever
23 four voting members submit a request in writing to the chair,
24 but not less than twice each calendar year. A majority of
25 members constitutes a quorum for the transaction of business.

.157842.4

1 The affirmative vote of at least a majority of a quorum shall
2 be necessary for an action to be taken by the board.

3 G. Each appointed member of the board serve a two-
4 year term. Vacancies shall be filled by appointment for the
5 remainder of the unexpired term.

6 H. Members of the board appointed by the governor
7 may receive per diem and mileage as provided for non-salaried
8 public officers in the Per Diem and Mileage Act and shall
9 receive no other compensation, perquisite or allowance.

10 Section 5. BOARD--DUTIES.--The board shall:

11 A. adopt rules governing terms, conditions and
12 priorities for providing financial assistance to tribes,
13 including developing application and evaluation procedures and
14 forms and qualifications for applicants and for projects;

15 B. provide financial assistance to tribes for
16 qualified projects on terms and conditions established by the
17 board;

18 C. authorize funding for qualified projects,
19 including:

20 (1) planning, designing, constructing,
21 improving, expanding or equipping water and wastewater
22 facilities, major water systems, electrical power lines,
23 communications infrastructure, roads, health infrastructure,
24 emergency response facilities and infrastructure needed to
25 encourage economic development;

.157842.4

1 (2) developing engineering feasibility reports
2 for infrastructure projects;

3 (3) inspecting construction of qualified
4 projects;

5 (4) providing special engineering services;

6 (5) completing environmental assessments or
7 archaeological clearances and other surveys for infrastructure
8 projects;

9 (6) acquiring land, easements or rights of
10 way; and

11 (7) paying legal costs and fiscal agent fees
12 associated with development of qualified projects.

13 Section 6. TRIBAL INFRASTRUCTURE TRUST FUND--CREATED--
14 INVESTMENT--DISTRIBUTION.--

15 A. The "tribal infrastructure trust fund" is
16 created in the state treasury. The trust fund shall consist of
17 money that is appropriated, donated or otherwise accrues to it.
18 Money in the trust fund shall be invested by the state
19 investment officer in the manner that land grant permanent
20 funds are invested pursuant to Chapter 6, Article 8 NMSA 1978.
21 Income from investment of the trust fund shall be credited to
22 the fund. Money in the trust fund shall not be expended for
23 any purpose, but an annual distribution from the trust fund
24 shall be made to the project fund pursuant to this section.

25 B. On July 1 of each year in which adequate money

.157842.4

1 is available in the trust fund, an annual distribution shall be
2 made from the trust fund to the project fund in the amount of
3 ten million dollars (\$10,000,000) until the distribution is
4 less than an amount equal to four and seven-tenths percent of
5 the average of the year-end market values of the trust fund for
6 the immediately preceding five calendar years. Thereafter, the
7 amount of the annual distribution shall be four and seven-
8 tenths percent of the average of the year-end market values of
9 the trust fund for the immediately preceding five calendar
10 years.

11 Section 7. TRIBAL INFRASTRUCTURE PROJECT FUND--CREATED--
12 PURPOSE--APPROPRIATIONS.--

13 A. The "tribal infrastructure project fund" is
14 created in the state treasury and:

15 (1) the department of finance and
16 administration shall administer the project fund;

17 (2) the project fund shall consist of:

18 (a) distributions made to it from the
19 trust fund;

20 (b) payments of principal and interest
21 on loans for qualified projects;

22 (c) other money appropriated by the
23 legislature or distributed or otherwise allocated to the
24 project fund for the purpose of supporting qualified projects;
25 and

.157842.4

1 (d) income from investment of the money
2 in the project fund that shall be credited to the project fund;

3 (3) balances in the project fund at the end of
4 a fiscal year shall not revert to the trust fund or to the
5 general fund; and

6 (4) the project fund may consist of
7 subaccounts as determined to be necessary by the department of
8 finance and administration.

9 B. The department of finance and administration may
10 establish procedures and adopt rules as required to administer
11 the project fund and to originate grants or loans for qualified
12 projects approved by the board.

13 C. Beginning in fiscal year 2006 and in subsequent
14 years, the lesser of one percent of the project fund or one
15 hundred thousand dollars (\$100,000) is appropriated from the
16 project fund to the department of finance and administration
17 for expenditure in the fiscal year in which it is appropriated,
18 to administer the project fund. Any unexpended or unencumbered
19 balance remaining at the end of any fiscal year shall revert to
20 the project fund.

21 D. Beginning in fiscal year 2006 and in each
22 subsequent year, the lesser of five percent of the project fund
23 or five hundred thousand dollars (\$500,000) is appropriated
24 from the project fund to the Indian affairs department for
25 expenditure in the fiscal year in which it is appropriated to

.157842.4

1 administer the Tribal Infrastructure Act, to pay per diem and
2 mileage as required by that act and for operation of the board.
3 Any unexpended or unencumbered balance remaining at the end of
4 any fiscal year shall revert to the project fund.

5 E. The balance in the project fund not otherwise
6 appropriated in this section is appropriated to the department
7 of finance and administration for expenditure in fiscal year
8 2006 and in subsequent fiscal years to carry out the provisions
9 of the Tribal Infrastructure Act by providing grants or loans
10 for qualified projects. Any unexpended or unencumbered balance
11 remaining at the end of a fiscal year shall revert to the
12 project fund.

13 Section 8. LEGISLATIVE OVERSIGHT--RULE REVIEW--REPORT.--

14 A. Rules proposed by the board and the department
15 of finance and administration pursuant to the Tribal
16 Infrastructure Act shall be reviewed by the legislative interim
17 Indian affairs committee prior to approval.

18 B. The legislative interim Indian affairs committee
19 shall be briefed by the board on grant and loan proposals
20 submitted to the board and shall review the list of grants and
21 loans made by the board.

22 C. The board shall report to the legislative
23 interim Indian affairs committee no later than October 1 of
24 each year regarding the total expenditures from the project
25 fund for the previous fiscal year, the purposes for which

.157842.4

1 expenditures were made, an analysis of the progress of the
2 projects funded and proposals for legislative action in the
3 subsequent legislative session.

4 - 11 -
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

underscoring material = new
~~[bracketed material]~~ = delete